

ATTACHMENT 7
EOSR

January 30, 2002

Stacy Baczkowski
Regional Water Quality Control Board
9174 Skypark Crt # 100
San Diego, CA

Subject: Calavera Hills Phase II and BTD#4
Tentative Order # R9-2002-0014
Ref: 401:DOC-135 SLB

Dear Ms. Baczkowski :

Preserve Calavera is a grassroots group of north county residents whose goal is the preservation of the Calavera area of northeastern Carlsbad- the largest remaining contiguous native habitat in coastal north county.

We are complete novices about your permit procedures and the technical requirements that support your agency's decision to approve or deny a permit. But we do know some things about this Calavera Hills project. And what we have going for us is basic common sense. Common sense tells us there are serious problems with this project, that the applicants have distorted information to minimize those problems, and that once this project is approved there is no assurance that these issues will be addressed.

Monday I spent some time in your office reviewing the project files. In addition to the comments submitted at that time, here are several additional concerns:

1. Other than the "No Build" alternative, there were no project alternatives considered that avoided wetlands impacts. What is the point of having federal, state, and local policies that say we intend to avoid wetlands and then allowing projects to proceed that have not even considered alternatives that avoid wetlands? What would be the impacts on this key element of the Agua Hedionda watershed if this project actually avoided wetlands impacts?
2. The wetlands mitigation now being considered by your agency and others is not the wetlands mitigation included in the draft or final EIR. One can say the public should have been aware from your public notice- but our organization who has been working on this issue for over a year was not aware of this notice. There was extensive public input to the EIR and at the Planning Commission and City Council meetings- yet there was no public comment on your notice(until our letter was submitted on Monday). There is a high level of public concern about this project. And the public hasn't really been heard.
3. The applicants state the wildlife agencies are misinformed with their determination that the "No Intersection" alternative is the LEDPA. We think that both the applicants and the wildlife agencies are misinformed- neither of the proposed alternatives is the LEDPA. But the fact that this has not been resolved, should mean that it is premature to base your agency's conclusion on one or the other.

4. Golfers, hikers, and other users of this open space are all of concern. The mitigations talk about barriers and signage for golfers- recognizing this will be a problem. But they don't go far enough- and they don't address the other concerns with access to this area. We have been trying for over a year to get some kind of coordinated enforcement of illegal off-road vehicle use in this area. One of the primary access points is off of El Camino Real, through the palm farm, and right through this wetlands area. The biological resources evaluation identifies the damage from off-road vehicle use. There is no coordinated enforcement, and there is ineffectual enforcement by the City of Carlsbad and the Department of Fish and Game.

This is a long term problem. Until it is addressed all restoration efforts in this area are pointless.

4. Rancho Carlsbad plans to dredge Agua Hedionda creek just downstream from the proposed detention basins. Homeowners in this area have been paying fees for this dredging for years. This dredging project can not be considered in isolation from this proposed project- they are only a few feet away from each other. City staff are well aware of this project and at a minimum should have informed you of this. Your analysis must include the combined project impacts, and currently it does not.

5. The Figure 3 showing detention basin size and location does not match what I have received from the FWS- presumably everyone is not working from the same information- certainly another cause for concern.

6. I did not see any reference in your files to the relocation of the Recreational Vehicle parking area of Rancho Carlsbad, and any new access to such a parking area. This is also part of the project impacts that have not been identified and is a further example of piecemeal planning on the part of the city and the project applicant.

7. The traffic analyses submitted by the city are seriously flawed, and are not based on current regional actions related to these roadway segments. The city of Vista is in the process of removing the Cannon Rd extension through Vista from their circulation element. Carlsbad did not resolve discrepancies between their own conflicting traffic studies, or between theirs and Vista's. The fact is that they have done no studies that identify the impacts of the 1,200 foot roadway as it was approved in their EIR. Let me repeat that- **They have done no traffic studies of the roadway configuration approved in their EIR.** In the absence of such studies any statements about traffic impacts are pure guesses. Yet they are asking you to accept their premise that this is the LEDPA.

8. They also concluded in the LEDPA analysis that "It is unavoidable that these two creeks (Agua Hedionda and Little Encinas) will be crossed by the roadways." They have provided no evidence to support that conclusion. The roadway alternatives they chose to evaluate all cross the creeks- but these aren't the only possible locations. They are the only options considered because they are the best places to connect with the adjoining roadway segments that have already been built. This is another example of how piecemeal planning leads us down a preselected path. We built the little piece of road from A to B because we had a developer to

pay for it. Now we have another developer who will pay for extending this road from B to C so of course we have to connect at B. The question that should have been asked at the beginning, and should be asked again now is "How do we get from A to C without impacting the wetlands at B?" They never asked that question and would have us all believe that now we are locked into destroying these wetlands.

9. The city staff memo concludes that both Carlsbad and Oceanside want all of Reach 4- there are just some specific noise and design issues to be worked out. This is quite an oversimplification of what occurred. Carlsbad removed part of Cannon Rd because the residents of one of the most influential neighborhoods were incensed about an elevated highway when the existing road is about 50' lower than their homes. They made it clear they would take Carlsbad to court if necessary and got the Oceanside City Council to support them. They have been very clear- they want no elevated road. The wildlife agencies have also been very clear- you can't have the road at the current elevation because of the creek. This does not sound like "minor" issues to be worked out. This section of Cannon Rd is part of the project and should be considered as part of the project. Until this is resolved it is premature to approve part of a road.

10. Carlsbad staff also concluded in their memo of 12/31/01 that "Reach 4B of Cannon Rd has independent utility and will serve important regional circulation needs." Their justification is access to the future high school site. Building a second high school is a very controversial issue in Carlsbad. There are lots of concerns about the cost and the social implications of dividing the city in two. One high school will serve primarily poor, minority children, and the other primarily rich white ones. They say on one hand we need Cannon Rd for access to the school, but on the other hand that the school has not done their site planning. The City of Carlsbad has decided that the Carlsbad School District really wants a road where the city says they want it for a school that the school district isn't even sure that it wants.

11. We are very concerned about the huge reliance on the local Homeowner's Association to assure that the required mitigation and monitoring is in place, and is maintained adequately- forever. We showed many examples of problems with the existing Homeowner's Association management of this area at the Planning Commission meeting on December 19, 2001. This included areas where extensive erosion is occurring, untreated water is allowed to flow directly into Lake Calavera and Calavera creek, and invasive plants are impacting existing native and revegetated native habitats.

We have also identified serious problems with mitigation management and monitoring by the City of Carlsbad who allowed habitat destruction, accepted mitigation funds, and then failed to take any of the required mitigation actions for over 5 years- and then did it only partially.

We need a better system of monitoring, accountability, and public oversight.

12. Cumulative impacts in this area have not been addressed. There has been a faulty drain on a key valve at the Lake Calavera Dam for years. The city has done preliminary engineering studies and recently just started biological studies of alternatives to repair this valve- which might include draining the lake.

There are extensive problems with Phase I mitigations. New baseline conditions should be established- that reflect what has really happened and not what a plan says on paper.

The city recently approved an industrial park project at the Carlsbad raceway that included two detention basins. At the City council meeting on January 15, 2002 city staff stated that flooding control for the Rancho Carlsbad Mobile Home Park required the two detention basins included in the Calavera Hills Phase II project, and the two detention basins included in the Carlsbad raceway project. By the city's own statements these two projects are related- yet there was nothing in your files to indicate that these had even been mentioned.

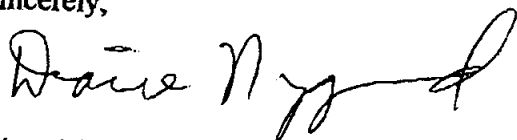
13. One of the new Villages of this development, and new roads will be located where drainage flows directly to Lake Calavera. The proposed mitigations do not provide adequate protection from nitrates entering and poisoning the plants and animals in the lake and adjacent wetlands.

14. Federally listed species are impacted by the proposed wetlands impacts. A Section 106 process is therefor indicated and we did not see this addressed as required by law.

We cannot continue to make piecemeal decisions about projects that adversely effect our wetlands and water quality.

We urge you to delay action on the permits for this project until all of these issues have been addressed.

Sincerely,



Diane Nygaard
On Behalf of Preserve Calavera

cc: Larry Silver
California Environmental Law Project